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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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September 17, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Stop Code - 1170  
Washington, D.C. 20554

Re: MM Docket No. 93-214

Dear Mr. Caton:

Transmitted herewith, on behalf of Lawrence F. Loesch and Margaret A. Loesch, licensees of Radio Station WERX-FM, Edenton, North Carolina, is a facsimile of the original and four copies of "Comments And Counterproposal Of Lawrence and Margaret Loesch" in the above-captioned rule making proceeding.

If any questions should arise during the course of your consideration of these comments, it is respectfully requested that you communicate with this office.

Very truly yours,

THARRINGTON, SMITH & HARGROVE

Mark J. Plak  
Counsel to

Lawrence F. Loesch and  
Margaret A. Loesch

MJP/mt  
Enclosures

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SEP 17 1993

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON, D.C.

In the Matter of )

Amendment of the )

Table of Allotments )

FM Broadcast Stations )

Section 73.202(b) of the Rules )

(Ocracoke, North Carolina )

MM Docket No. 93-214 /To: The Chief  
Policy and Rules Division  
Mass Media Bureau**COMMENTS AND COUNTERPROPOSAL  
OF LAWRENCE AND MARGARET LOESCH**

Lawrence F. Loesch and Margaret A. Loesch, licensees of Radio Station WERX-FM, Edenton, North Carolina ("WERX"), by their attorney and pursuant to Section 1.420 of the Rules, hereby submit their comments and counterproposal on the Notice of Proposed Rule Making ("Notice"), issued in the above-captioned docket.

By the Notice, the Commission proposes to amend the FM Table of Allotments by substituting Channel 224C1 for Channel 225A at Ocracoke, North Carolina.

WERX desires to change its present allotment and city of license from Channel 273C2 at Edenton, North Carolina, to Channel 273C1 at Columbia, North Carolina. This proposal has been determined to be mutually exclusive with the proposal set forth in the Notice to substitute Channel 224C1 for 225A at Ocracoke, North Carolina.

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WERX's proposal would result in a preferential arrangement of allotments from the standpoint of the public interest. If WERX is permitted to operate as proposed, an additional 34,675 persons will receive 60 dBu service from the station. See Engineering Statement of Bromo Communications attached as Exhibit A at p. 2. This increase in service to the public dwarfs any which would be achieved by upgrading the Ocracoke allotment as proposed. Further particulars relating to WERX's counterproposal are contained within the Engineering Statement.

### **Conclusion**

WERX respectfully submits that the public interest would best be served by amending the FM Table of Allotments as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Edenton, N.C.	261C2, 273C2	261C2
Columbia, N.C.	289C1	273C1, 289C1
Pine Knoll Shores, N.C.	272A	224A
Ocracoke, N.C.	225A	225A

This the 17th day of September, 1993.

Respectfully submitted,

LAWRENCE F. LOESCH AND  
MARGARET A. LOESCH

By. 

Mark J. Prak

Their Attorney

Tharrington, Smith & Hargrove  
Attorneys At Law  
Post Office Box 1151  
209 Fayetteville Street Mall  
Raleigh, North Carolina 27602  
(919) 821-4711

**EXHIBIT A**

**Engineering Statement**

**COUNTERPROPOSAL TO NNI DOCKET #93-214**  
**FILED BY LAWRENCE & MARGARET LOESCH**  
**REQUESTING CH 273C1**  
**COLUMBIA, NORTH CAROLINA**  
**September 1993**

Technical Exhibit  
TE-1

Bromo Communications, Inc.  
P.O. Box 21760 - 1331 Ocean Boulevard, Suite 201  
St. Simons Island, Georgia 31522  
(912) 638-5608

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**COUNTERPROPOSAL TO MM DOCKET #93-214**  
**FILED BY LAWRENCE & MARGARET LOESCH**  
**REQUESTING CH 273C1**  
**COLUMBIA, NORTH CAROLINA**  
**September 1993**

This requested rule making is being filed as a counterproposal to MM Docket #93-214, RM-8287, and is filed on behalf of Lawrence & Margaret Loesch ("Loesch"), licensees of WERX-FM, Edenton, North Carolina. Loesch wishes to upgrade from the present Channel 273C2, licensed to Edenton, North Carolina, to Channel 273C1 licensed to Columbia, North Carolina.

Exhibit #1 is an allocation study indicating that the reference coordinates of North Latitude 35° 43' 33" and West Longitude 76° 13' 07" clear all Class C1 allocation constraints but one, Application BPH-920720MA at Pine Knoll Shores, North Carolina. Exhibit #2 is a Usable Area Map indicating coverage of Columbia, North Carolina, the proposed city of license. The alternate channel of 224A was found for Pine Knoll Shores, North Carolina. The lone applicant's site at North Latitude 34° 42' 38" and West Longitude 76° 37' 52" clears all allocation constraints with the exception of the Ocracoke, North Carolina, Class C1 requested upgrade in MM Docket #93-214. Herein lies the mutual exclusivity with Loesch.

The removal of WERX from Edenton, North Carolina, will leave the city with two other services:

WBXB	261 C2	50 KW
WZBO	1260 kHz	1 KW (Day)

The city of Columbia presently has only one licensed service:

WRSF	289 C1	100 KW
------	--------	--------

The reallocation of WERX to Columbia would make the second aural service licensed to that city. Additionally, the Columbia station would be a Class C1 facility offering wide area coverage.

Presently WERX has an equivalent maximum Class C2 station. If permitted to upgrade to Class C1, 34,675 additional persons will be served by the WERX 60 dBu contour:

		Population
Present	WERX Class C2	91,878
Proposed	WERX Class C1	126,553

All population counts are based on the 1990 Census taken from the PL 91-171 files.



If ordered to Class C1, WERX will timely file FCC Form 301 requesting the expanded facility.

In conclusion, Loesch requests that 73.207(b) reflect the following:

	<u>Present</u>	<u>Proposed</u>
Edenton, NC	261C2, 273C2	261C2
Columbia, NC	289C1	273C1, 289C1
Pine Knoll Shores, NC	272A	224A
Ocracoke, NC	225A	225A

All of the information contained herein is true and correct to the best of our knowledge and belief. All data relating to authorized, applied or proposed facilities (FM stations) was extracted from the NTIA database as updated in July 1993. We assume no liability for omissions or errors in that database. Should questions arise during consideration of this counterproposal, we would welcome the opportunity to discuss the matter by phone at (912) 638-5608

**BROMO COMMUNICATIONS INC**  
P.O. Box M - ST SIMONS ISLAND GA 31522

**WERX - Searching at C1 Reference**  
Requests Columbia, North Carolina

**REFERENCE**  
35 43 33 N  
78 13 07 W

**CLASS C1**  
Current rules spacings  
CHANNEL 273 -102.5 MHz

**DISPLAY DATES**  
DATA 07-28-83  
SEARCH 08-08-83

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WERXFM	273C2	Edenton	NC	331.5	24.26	223.5	-199.24 *
LI CN	35 55 05	78 20 48	28.000 kW	210M	15.1	138.9	
	Lawrence F. Loesch & Margaret				BLH920820KB		
1. AP272	272A	Pine Knoll Shores	NC	198.4	118.73	132.5	-13.77 *
AP CN	34 42 38	78 37 52	8.000 kW	100M	73.8	82.3	
	WMBL Inc.				BPH920720MA 921207		
WOLC	273B	Princess Anne	MD	10.8	289.53	289.5	0.03 <
LI CN	38 08 43	75 38 14	50.000 kW	152M	187.5	187.5	
	Maranatha, Inc.				BLH7539		
WHLQ	273A	Louisburg	NC	282.8	199.91	199.5	0.41 <
LI CN	36 07 12	78 22 48	8.000 kW	100M	124.2	124.0	
	Franklin Broadcasting Company				BLH920108KA		
WIKS	270C1	New Bern	NC	238.5	105.42	81.5	23.92
LI CN	35 12 07	77 11 15	100.000 kW	299M	85.5	50.7	
	WIKS-FM, Inc.				BLH870306KD		

**273 C1 ALLOCATION STUDY**

ALL REQUIRED SPACINGS ARE ROUNDED DOWN BY  
.5 KM

1. THIS PROPOSAL SEEMS TO MOVE THE SINGLE  
PINE KNOLL SHORES APPLICANT TO CHANNEL  
224A.

**EXHIBIT #1**

**LAWRENCE & MARGARET LOESCH**  
**WERX-FM**  
**REQUESTS 273C1**  
**COLUMBIA, NORTH CAROLINA**

**SEPTEMBER 1983**

**BROMO**  
**COMMUNICATIONS**  
BROADCAST TECHNICAL CONSULTANTS  
St Simons Island, Georgia Washington, D.C.



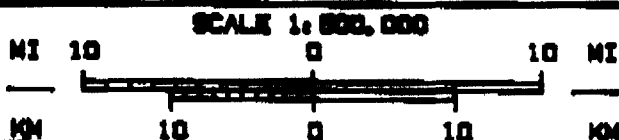
## 273 C1 USABLE AREA

PINE KNOLL SHORES APPLICANT ON 272A IS IGNORED IN THIS USABLE AREA.

## EXHIBIT #2

LAWRENCE & MARGARET LOESCH  
VERX-FM  
REQUESTS 273C1  
COLUMBIA, NORTH CAROLINA

SEPTEMBER 1993



**BROMO COMMUNICATIONS**  
BROADCAST TECHNICAL CONSULTANTS  
St Simons Island, Georgia Washington, D.C.

**BROMO COMMUNICATIONS INC**  
**P.O. Box M - ST SIMONS ISLAND GA 31522**

**Pine Knoll Shores**  
**Searching at Present Application Site**

<b>REFERENCE</b>	<b>CLASS A</b>	<b>DISPLAY DATES</b>
34 42 38 N		DATA 07-28-93
76 37 52 W	Current rules spacings	SEARCH 09-08-93
----- CHANNEL 224 - 92.7 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD224	224C1	Ocracoke	NC	51.0	25.32	200.0	-174.68 *
AD	34 51 15	76 24 58	0.000 kW	0M	15.7	124.3	
	Ocracoke Broadcasters				RMB287		930628
CP225	225A	Ocracoke	NC	53.9	74.78	72.0	2.78 <
CP CN	35 06 27	75 58 11	1.000 kW	22M	46.5	44.8	
	Ocracoke Broadcasters				BPH920505ME		
DE225	225A	Ocracoke	NC	53.9	74.78	72.0	2.78 <
DE	35 06 27	75 58 11	0.000 kW	0M	46.5	44.8	
	Ocracoke Broadcasters				RMB287		930628
WDLX	227C	Washington	NC	316.2	100.60	93.0	3.60
LI CN	35 21 55	77 23 38	100.000 kW	543M	62.5	59.0	
	Tar Heel Broadcasting System,				BLH791206AF		
WFX2.A	222C2	Jacksonville	NC	273.4	71.85	55.0	16.85
AP ZCN	34 44 56	77 24 51	35.000 kW	72M	44.7	34.2	
	Ferguson Radio Partnership				BMPH9304021D		
WFX2.C	222C2	Jacksonville	NC	253.0	82.22	55.0	27.22
CP CN	34 29 38	77 29 18	50.000 kW	150M	51.1	34.2	
	Ferguson Radio Partnership				BPH880421MT		

**PINE KNOLL SHORES ALTERNATE**

**CHANNEL 224 A CLEARS ALL ALLOCATION  
 CONSTRAINTS FROM THE PRESENT APPLICATION  
 SITE OTHER THAN THE PROPOSED OCRACOCKE  
 REQUESTED C1 UPGRADED.**

**EXHIBIT #3**

**LAWRENCE & MARGARET LOESCH**  
**WERX-FM**  
**REQUESTS 279C1**  
**COLUMBIA, NORTH CAROLINA**

**SEPTEMBER 1993**

**BROMO**  
**COMMUNICATIONS**  
 St Simons Island, Georgia      BROADCAST  
 TECHNICAL CONSULTANTS  
 Washington, D.C.

**AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT**


State of Georgia       )  
St. Simons Island    )  
County of Glynn       )       ss:

CLIFTON G. MOOR being duly sworn, deposes and says that he is an officer of Bromo Communications, Inc. Bromo has been engaged by Lawrence & Margaret Loesch, licensee of WERX-FM Radio Station, to prepare the attached Technical Exhibit.


His qualifications are a matter of record before the Federal Communications Commission. He has been active in broadcast engineering since 1966.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

*This the 9th day of September, 1993.*

  
\_\_\_\_\_  
CLIFTON G. MOOR  
Affiant

*Sworn to and subscribed before  
me this the 9th day of September, 1993.*

  
\_\_\_\_\_  
Notary Public, State of Georgia  
My Commission Expires: September 8, 1995

### **CERTIFICATE OF SERVICE**

I, Martha K. Trull, a legal assistant in the law firm of Tharrington, Smith & Hargrove, hereby certify that a copy of the forgoing **COMMENTS AND COUNTER-PROPOSAL** were served on the following parties in the manner indicated:

**Via Hand Delivery:**

Mr. Michael C. Ruger  
Chief, Allocations Branch  
Policy and Rules Division  
2025 M Street, N.W., Room 8322  
Stop Code - 1800D5  
Washington, D.C. 20554

**Via U.S. Certified Mail, Postage Prepaid:**

William J. Pennington, III  
Post Office Box 2506  
Pawleys Island, S.C. 29585  
Counsel to  
Ocracoke Broadcasters

This the 17th day of September, 1993.

  
\_\_\_\_\_  
Martha K. Trull